

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CATHERINE KUEHN,	)	
	)	
Plaintiff,	)	Case No.
	)	
vs.	)	St. Louis County Circuit Court
	)	Case No. 20SL-CC00837
CHERYL POLLARD and	)	
SWINGLINE TRANSPORT, LLC,	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

Defendant Swingline Transport, LLC, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, files this Notice for the Removal of the above-referenced action to the United States District Court for the Eastern District of Missouri, Eastern Division, and for grounds therefore respectfully states:

**A. Venue is proper in the United States District Court for the Eastern District of Missouri, Eastern Division**

1. The above-referenced action, now pending in the St. Louis County, Missouri Circuit Court, is a civil action at law brought by Plaintiff, above-named, against Defendants to recover damages.

2. The incident alleged by Plaintiff has arisen within the jurisdiction or boundaries of the United States District Court, Eastern District of Missouri, Eastern Division.

3. Pursuant to 28 U.S.C. §1446(a), venue lies in the United States District Court for the Eastern District of Missouri, Eastern Division, because St. Louis County, Missouri is within the Eastern District of Missouri, Eastern Division.

**B. The Procedural Requirements for Removal are Satisfied**

4. The Complaint, which is attached hereto as part of Exhibit 1, was filed and served upon Defendant on February 26, 2020, and, therefore, the time for filing this Notice of Removal under 28 U.S.C. § 1446 has not yet expired.

5. Written notice of the filing of this Notice of Removal is being given to Plaintiff and a copy of this Notice of Removal is being filed with the St. Louis County Clerk of Court pursuant to 28 U.S.C. §1446(d).

6. A copy of all known process, pleadings and orders from the state case are attached collectively hereto as **Exhibit 1** in accordance with 28 U.S.C. §1446(a).

**C. There is Diversity Among The Original Parties**

7. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332(a) and removal to this Court is proper pursuant to 28 U.S.C. §1441(b)(2) because Defendants are not citizens of this State, and there is complete diversity of citizenship between all parties.

8. Plaintiff Catherine Kuehn was at the time of the commencement of this action, and has been ever since, a citizen and resident of Missouri.

9. Defendant Cheryl Pollard was at the time of the commencement of this action, and has been ever since, a citizen and resident of Alabama.

10. Defendant Swingline Transport, LLC is an Iowa limited liability company with its principal place of business in Cedar Rapids, Iowa. The only members of Swingline Transport, LLC are Aaron Kingsbury and William Zenke, both of whom are citizens and residents of Iowa. For diversity purposes, Swingline Transport, LLC is a citizen and/or resident of Iowa.

**D. The Amount in Controversy Exceeds \$75,000**

11. The matter and amount in controversy in this action, exclusive of interest and costs, exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000.00) as required by 28 U.S.C.

§1332(a), in that Plaintiff, in her Petition, prays for judgment in excess of that amount, and has alleged that Defendants allegedly caused severe, permanent, painful and progressive injuries to Plaintiff for which she will continue to require medical care into the future, and for which she is also seeking to recover punitive damages. Further, on August 12, 2019, Plaintiff submitted a demand for \$1,500,000, which was subsequently lowered to \$750,000 on October 3, 2019.

**E. Consent of Served Defendants**

12. Defendant has no knowledge or notice that Defendant Cheryl Pollard has been served with process in this case at the time of this Notice of Removal. *See* St. Louis County Docket Sheet, attached hereto as **Exhibit 2**.

13. 28 U.S.C. §1146(b)(2)(A) provides: “When a civil action is removed solely under section 1441(a), all defendants who have been properly **joined and served** must join in or consent to the removal of the action.” (Emphasis added).

14. Because Defendant has no knowledge or information that Defendant Cheryl Pollard has been served with process in this case, Defendant Cheryl Pollard need not consent to this removal at this time.

**WHEREFORE**, Defendant Swingline Transport, LLC prays that this Honorable Court enter an Order causing said Cause No. 20SL-CC00837 of the St. Louis County, Missouri Circuit Court to be removed to this Court for further proceedings, and that this Court take jurisdiction herein, and make further orders as may be just and proper.

/s/ Kevin L. Fritz

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**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing was filed electronically with the Clerk of Court on March 24, 2020, to be served by operation of the Court's electronic filing system upon: Brent E. Labovitz, Kolker & Labovitz, 7700 Bonhomme Ave., Suite 350, Clayton, Missouri 63105, bel@kolkerlawfirm.com, Attorneys for Plaintiff.

/s/ Kevin L. Fritz

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